

American Planning Association  
**Maryland Chapter**

Maryland Chapter of the American Planning Association  
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8 November 2010

Ladies and Gentlemen:

The Maryland Chapter of the American Planning Association is a nonprofit advocacy group whose mission is to promote Planning and support Planners working in our state. We represent over 600 professionals working in local, state, and federal government, nonprofit organizations, and private consulting firms. Our members influence the development of housing, highways, offices, parks, schools, and utility infrastructure of all types. We facilitate jobs and commerce. At our core, we help people achieve their vision of what a functioning and supportive community is for them. Through all the various activities and spheres in which our members investigate and educate, we assure environmental health for a present that does not burden the future. Our parent organization, the American Planning Association, serves a similarly driven membership of nearly 28,000 nationally and internationally. It is difficult to imagine the number or breadth of perspectives such a group of highly-educated and experienced professionals brings to any topic. A subject as vital and highly-charged as the health of the Chesapeake Bay brings their full attention to bear.

The Chesapeake Bay is important to the State of Maryland for a variety of reasons. Approximately 95% of Maryland and its population lies within the Chesapeake Bay watershed. It is an incubator of marine life. It is a transportation medium. It is a recreational amenity. The Bay is an economic machine of unparalleled value. It is our culture and identity to Marylanders. Unfortunately, the last 200 years has seen it used as a sewer and dump as well. Reconciling use with the damage that it causes is not easy. We as Planners want to and can be part of the solution.

It is with that goal that the Maryland Chapter assembled a forum of our members and other interested parties on 27 October 2010 to discuss the Total Maximum Daily Load (TMDL) “diet” the Environmental Protection Agency has proposed for the Bay. From the onset, those participating in our public meeting expressed general support for TMDL as a means to a healthier Chesapeake Bay. This is the strong and difficult leadership that previous voluntary efforts were unable to create.

A theme of the meeting was to explore potential conflicts between the TMDL mandate and Smart Growth. Compact, walkable communities can reduce pollutant loads in runoff and transportation sources. For example, fewer vehicle miles traveled (through expanded transit availability or mixed-use development) reduces the automotive exhaust gases including

damaging nutrient pollution expelled into the atmosphere for ultimate transport into the Bay. Most of the Chapter's comments provide more detailed suggestions for how to enhance the use of Smart Growth to achieve TMDL goals.

The results of our meeting were the following comments to the Environmental Protection Agency (EPA).

- **Provide incentives for higher intensity development.** There was a great deal of concern that development pressure in the near term could be sated with low intensity development in areas where higher density is more appropriate and better for water quality. That would leave no capacity for growth in long term scenarios where significant population growth is projected. Furthermore, pollution prevention techniques will be less traditional and more innovative/expensive for higher intensity growth solutions that will support transit and preserve open spaces. Incentives must be incorporated in Watershed Implementation Plan (WIP) guidance to encourage sustainable solutions and development consistent with EPA's Office of Smart Growth.
- **Do not encourage low-density infill development.** Another facet of the discussion above focused on areas with additional capacity for growth. Existing communities must be strengthened and supported to make and retain sustainable, viable urban areas. Just as in new communities or developments, low intensity, infill development is easier to permit and less expensive to build in the short run. Those types of solutions are lost opportunities to provide for a mix of housing sizes, types, and affordable options. It is also an opportunity to reduce the pollution loading from existing areas constructed when there were no or antiquated storm water regulations. All of these goals can be made more affordable by spreading the cost over more units. Encouraging low-intensity development (even by not stating the goal of high-intensity infill) raises the per unit cost of pollution prevention for communities. A function of TMDL must be to encourage an intensity of infill development that supports walkability and non-motorized transportation options as well as transit, which helps ensure that per-capita nutrient loads are low.
- **Provide state-level tools for aligning Watershed Implementation Plans and goals.** Any state in the Bay's watershed is competing against all the others for regional economic development opportunities. Communities within Maryland are competing with other Maryland jurisdictions for revenue generating activities like new homes and businesses. In the interest of a level playing field with regard to the costs of TMDL and pollution reduction strategies, the EPA must provide tools to coordinate WIPs across the state and watershed. These may take the form of checklists, approved technologies, common policy objectives and priorities, or guidance. All participants need to be planning under the same rules and assumptions.
- **Make recommendations on how to use Smart Growth to achieve TMDL goals.** The EPA must apply the best science and land development techniques to suggest ways to achieve Chesapeake Bay water quality goals in the context of growth demands. The EPA has available to it tremendous resources that municipalities throughout the watershed lack. The EPA should capture and coordinate the expert advice of Smart Growth practitioners and researchers such as EPA's Office of Smart Growth, the National Center for Smart Growth, and the Smart Growth Network along with local groups such as 1000 Friends of Maryland, the Eastern Shore Conservancy,

and numerous progressive local Planning departments. From this body of knowledge, the EPA must recommend Smart Growth strategies that will reduce pollutant loading and advance water quality goals. EPA should include differences in nutrient emissions from smart growth development compared to sprawl development in its TMDL model and permit reviews.

- **Identify and encourage the improvement of septic systems.** Failing, non-functional, and outdated septic systems undermine any investments in pollutant capture and reduction. Traditional septic system designs do not treat nutrients in wastewater. The TMDL plan must require and fund studies to identify areas with failing septic systems and make recommendations for updating treatment. In addition, Maryland's septic load should be capped at the current level and all new septic systems should be required to utilize best available technology for nutrient removal.
- **Promote flexibility in the application of development ordinances and regulations to incorporate development techniques and patterns, like Smart Growth, that will improve water quality.** EPA should provide technical assistance and guidance on how to implement such a program. In order to realize the benefits of Smart Growth and advanced techniques of land development such as Form-based Codes and Transfer of Development Rights, jurisdictions must be encouraged to allow them in their development ordinances and regulations. Templates, model language, complementary water quality improvements and other such guidance should be coupled with technical assistance to promote solutions that embrace innovation and adaptation to site-specific opportunities. Cookie cutters don't even work on all cookies.
- **Connect TMDL and Smart Growth to economic development objectives and job creation.** Our members made it clear that in the end solutions that make economic arguments are the easiest to justify and implement. We are all feeling the strain of reduced budgets and broadly distributed resources. EPA must provide economic justifications for its recommendations and strategies. All requirements should be accompanied by an estimate of the jobs to be created by its implementation. Use economic benefits among the metrics for TMDL efforts.
- **The Sustainable Communities Act of 2010 geographic criteria need to include site design.** The State of Maryland recently enacted legislation to encourage the creation of sustainable communities. Other states in the watershed have passed or are considering similar legislation. EPA should suggest that all of the states in the Chesapeake Bay watershed include sustainability goals with site design in their criteria and Smart Growth among the recommended guidance to ensure that low-density development does not use up development capacity needed for smart growth.
- **Be a strong advocate of Smart Growth to developers on behalf of individual communities, particularly those that do not have staff to provide an outreach role for themselves. Encourage states to be advocates as well.** New development is the purview of private companies (developers, designers, constructors). Regulatory flexibility and enticements discussed above may not convince a developer that a sufficient market exists to build in a sustainable, environmentally responsible way. EPA must advocate for sustainable patterns of development. Where communities do not have professional staff to provide their own advocacy, EPA and the state's roles are critical to achieving an outcome that will achieve water quality goals.

- **Provide targeted outreach and education support for elected officials.**

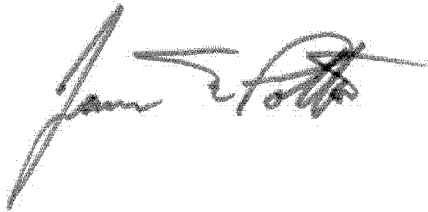
Traditional means of accommodating growth will always be easier, less expensive, and more expedient because it is what we are used to and what our systems are designed to support. Elected officials in jurisdictions across the watershed must be aware of the issues and advocates for change. Without elected officials leading their communities to the understanding that water quality in the Chesapeake affects and is the responsibility of everyone, these efforts will fail as previous ones have. EPA must educate elected officials about the importance, benefits, and opportunities to be gleaned from TMDL compliance.

The strategies above remove barriers to sustainability. They encourage patterns of development that facilitate water quality improvements and growth. They are designed to allow environmentally responsible development to happen and encourage developers to build it. They further help the public and elected officials join in the effort to save the Chesapeake Bay. The scale of change needed to rescue the Bay demands innovation. Accommodating growth in a context of reduction will require participation from all stakeholders. It will require leadership. The Environmental Protection Agency has been given this leadership role.

The Maryland Chapter of APA and its members feel strongly that walkable, sustainable communities complement environmental health. Air and water quality are enhanced by development patterns that discourage personal automobile use. Energy demands are reduced by clustered development, and natural areas are left to flourish. The Maryland Chapter of the American Planning Association urges EPA to use its authority to encourage Smart Growth as a tool in the cleanup of the Chesapeake Bay and as a means for environmental responsibility broadly.

Please contact me if you have questions or need our help. Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in dark ink, appearing to read "James M. Potter". The signature is fluid and cursive, with a large initial "J" and a stylized "P".

James M. Potter, AICP, PP  
President, Maryland Chapter of the American Planning Association